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C O N F I D E N T I A L SECTION 01 OF 02 NAIROBI 004984

SIPDIS

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TAGS: [PGOV](#) [PREL](#) [KDEM](#) [KE](#)

SUBJECT: KENYA ON HOLD: NO NEW CABINET AND NO DIALOGUE

REF: A. NAIROBI 4902

[B](#). NAIROBI 4901

Classified By: Political Counselor Michael J. Fitzpatrick for reasons 1
.4 (b,d)

[1](#)1. (C) SUMMARY: A week after President Kibaki dismissed his cabinet and suspended Parliament indefinitely, no clear picture has emerged of the post-referendum Kenyan political landscape. The Ambassador's conversation with Orange Democratic Movement leaders revealed a group still groping its way in the dark; meanwhile, a flow of influential visitors has been unable to convince the president to face reality and approach the Orange team in earnest. END SUMMARY.

THE AMBASSADORS AND THE ORANGES

[1](#)2. (C) The Ambassador, along with Chiefs of Mission from Canada, Japan, Switzerland, Denmark, and the Netherlands, lunched November 30 with Orange Democratic Movement (ODM) leaders Raila Odinga, Uhuru Kenyatta, William Ruto, and Peter Anyang' Nyong'o to gain a sense of their objectives and direction. The ODM members emphasized their offer to enter into a dialogue with the Kibaki government (or what remains of it), noting that the president had made no overtures to the Movement as a collective, only to certain individuals -- an approach unacceptable to the ODM. (NOTE: in a separate conversation, MP Reuben Ndolo told Poloff that First Lady Lucy Kibaki had been sent as interlocutor to the ODM on November 25, a gesture taken by the movement as a political slap in the face. END NOTE.) Discontented with Kibaki's lack of communication, approximately 30 ODM members, with a handful of lawyers, headed November 30 to Naivasha to strategize on the way forward for the constitutional review process, and their own organizational structure. Commenting on the significance of the referendum result, Kenyatta remarked that it exposed the chasm between Kikuyu Central Province (the only one to vote "Yes") and the rest of the country. The message to Kibaki, he continued, is that the president cannot go about business as usual.

WHAT THEY WANT

[1](#)3. (C) The ODM leaders told the Ambassador that they are looking for the government to engage them in structured discussion, strictly as a group, although they have appointed Moi's former legal adviser Mutula Kilonzo as the organization's mouthpiece. The organization has two priorities: that Kibaki should commit to a "time-bound" legislative agenda, and to continuing and completing the constitutional review process. Contrary to statements immediately following the referendum, the ODM asserted they are not insisting on snap general elections. Claiming they are not out to bring down President Kibaki, they are keeping snap elections in their back pocket as a fall back. They confirmed that they intended to run as a coalition -- with LDP and KANU retaining their independent party identities -- in 2007 elections. The ODM also informed the five Chiefs of Mission that, although they had not formally assessed the numbers, they did not believe they currently had enough votes in Parliament for a vote of no confidence, which would force Kibaki to call early elections. (NOTE: 150 of Kenya's 210 constituencies voted Orange; but not all of those MPs necessarily back risking their perks in early elections. A vote of no confidence requires a simple majority of all 222 voting Members of Parliament (including 12 nominated MPs). END NOTE.) The ODM has not achieved a unified internal position for achieving constitutional reform, something they hope to hammer out in Naivasha. In their discussion with the Ambassador, both the option of convening a constituency committee to negotiate a new draft, and amending the current constitution, arose as possibilities.

MANY VISITORS, NO ORANGES

[1](#)4. (C) While Kibaki has not met with any of the ODM leadership, he has received other visitors since the referendum, including former Kenya Wildlife Service Director Richard Leahey and former Constitutional Affairs Minister Charles Njonjo. The men spoke with the president shortly after the Ambassador on November 25 (ref A) carrying the same message urging Kibaki to seize the opportunity to renew his reform agenda and to engage in dialogue with the ODM. Leahey

commented to the Ambassador that he was "disappointed" with Kibaki's laconic response, and that Njonjo was so dismayed, he -- who has avoided appearing in public for many, many years -- participated in the Orange thanksgiving and prayer rally the very next day (ref B). Former president Moi has also visited State House, similarly encouraging Kibaki to reach out to the ODM.

ROADBLOCKS FOR THE ORANGES, LITERALLY

15. (SBU) On orders from an unnamed source, police in Mombasa have been instructed to "seal off" the Municipal Stadium, the venue chosen for the ODM's first "thanks rally", according to The Standard newspaper November 30. Citing "firm instructions to stop the rally at all costs," the report quoted government spokesman Alfred Mutua as noting that the order was consistent with the November 27 ban on ODM mass gatherings (ref B), adding that police would not license the meeting. (VP Awori's ban on Orange rallies, by the way, has yet to be legally gazzetted, as required to give it the force of law.) The ODM has insisted it will go ahead with the December 10 event.

COMMENT: KIBAKI'S REALITY

16. (C) The ODM gives the impression not of confidence, but of concern, of feeling stuck. This may stem from the disparate, and perhaps fragile, nature of its makeup as an organization initially cobbled together for a single purpose (now achieved). Tea-leaf reading increasingly suggests that President Kibaki may well try to pick and choose among palatable (to him) KANU members, such as Nicholas Biwott, and lesser lights among the LDP, bypassing the KANU and LDP leaderships in an effort to "gut it out" with a parliamentary majority of his own design. But with less than one week remaining before his self-imposed two week deadline for naming a new cabinet, President Kibaki gives no indication that he appreciates what the ODM has characterized as a crisis. The longer he allows the current uncertainty to steep, the less confidence there is in his ability to lead as President of all Kenyans (instead of as chief of the Kikuyu tribe) -- particularly among his rivals.

BELLAMY